

Subpart C—Administrative Proceedings

§ 502.30 Applicability of procedures and rules.

The procedures and rules contained herein prescribe the administrative process that will be applied with respect to a determination to impose an assessment of civil money penalties, and which may be applied to the enforcement of covered provisions of the work contract as set forth in § 501.10(a), including the collection of unpaid wages due as a result of any violation of the H-2A provisions of the Act or of these regulations. Except with respect to the imposition of civil money penalties, the Secretary may, in the Secretary's discretion, seek enforcement action in Federal court without resort to any administrative proceedings.

PROCEDURES RELATING TO HEARING

§ 502.31 Written notice of determination required.

Whenever the Administrator, WHD decides to assess a civil money penalty or to proceed administratively to enforce covered contractual obligations, including the recovery of unpaid wages, the person against whom such action is taken shall be notified in writing of such determination.

§ 502.32 Contents of notice.

The notice required by § 501.31 shall:

- (a) Set forth the determination of the Administrator, WHD including the amount of any unpaid wages due or actions necessary to fulfill a covered contractual obligation, the amount of any civil money penalty assessment and the reason or reasons therefore.
- (b) Set forth the right to request a hearing on such determination.
- (c) Inform any affected person or persons that in the absence of a timely request for a hearing, the determination of the Administrator, WHD shall become final and unappealable.
- (d) Set forth the time and method for requesting a hearing, and the procedures relating thereto, as set forth in § 501.33.

§ 502.33 Request for hearing.

(a) Any person desiring review of a determination referred to in § 501.32, including judicial review, shall make a written request for an administrative hearing to the official who issued the determination at the WHD address appearing on the determination notice, no later than 30 days after issuance of the notice referred to in § 501.32.

(b) No particular form is prescribed for any request for hearing permitted by this part. However, any such request shall:

- (1) Be typewritten or legibly written;
- (2) Specify the issue or issues stated in the notice of determination giving rise to such request;
- (3) State the specific reason or reasons why the person requesting the hearing believes such determination is in error;
- (4) Be signed by the person making the request or by an authorized representative of such person; and
- (5) Include the address at which such person or authorized representative desires to receive further communications relating thereto.

(c) The request for such hearing must be received by the official who issued the determination, at the WHD address appearing on the determination notice, within the time set forth in paragraph (a) of this section. For the affected person's protection, if the request is by mail, it should be by certified mail.

(d) The determination shall take effect on the start date identified in the determination, unless an administrative appeal is properly filed. The timely filing of an administrative appeal stays the determination pending the outcome of the appeal proceedings.

RULES OF PRACTICE

§ 502.34 General.

Except as specifically provided in these regulations, the *Rules of Practice and Procedure for Administrative Hearings Before the Office of Administrative Law Judges* established by the Secretary at 29 CFR part 18 shall apply to administrative proceedings described in this part.